

July 14, 2006

Ms. Alicia C. Matthews, Director
Massachusetts Cable Television Division
One South Station
Boston, Massachusetts 02110

Re: CTV-06-1: Petition of Verizon New England

Dear Director Matthews:

We are writing to express our serious concerns and strong opposition to Verizon of New England's "Petition for Adoption of Competitive License Regulation". We appreciate the opportunity to share these concerns and our opposition with you.

First and foremost, we view the proposed changes of the Cable Division's regulations as an attempt to circumvent municipal cable licensing. As you are aware, there has been and remains a strong consensus in the Commonwealth of Massachusetts in support of municipal cable franchising. This fact is evidenced in many ways, including the fine work and reports of the Special Commission on Cable Television Operations (Co-Chairs: Senator Pamela Resor and Representative Barry R. Finegold), as well as the thoughtful reports, efforts and work of the Cable Division. As a result of the municipal franchising process, Massachusetts leads the nation with respect to Public, Educational and Government ("PEG") Access (Community) operations and programming. We are informed that just this past week, hundreds of PEG Access/Community Programming directors and personnel who came to Massachusetts for a national conference (Alliance for Community Media), remarked in wonder and appreciation at the strength of community programming in our Commonwealth. In cities and towns across our state, thousands of residents, business leaders, students, and others bring to residents a myriad of public events, celebrations, government meetings, and school programs, thereby increasing public participation and a sense of community. Community programming is a product of a thoughtful and deliberative process – municipal cable licensing. This process is one that has worked, and worked well, for over thirty (30) years. Local cable licensing, not only results in cable licenses and services which met community needs and interests; it is also the best means to expand competition throughout Massachusetts.

As evidenced by the competitive cable licenses granted by all of the municipalities, we represent either jointly or individually – the City of Woburn (RCN and Verizon), and the Towns of Stoneham (RCN and Verizon), Winchester (RCN¹ and Verizon) and Reading (Verizon), – no one has been more interested in fostering competition in cable services than the cities and towns of the Commonwealth. Most importantly, cable licensing by municipalities, without truncated and “one size fits all” regulatory limitations, and without unreasonable restrictions and limitations to: (i) the information that may be required of the competitive applicant, and (ii) the standard of review by the municipality (as proposed by Verizon) - works and, indeed, works well.

Rather than expedite the cable licensing process and increase competition, Verizon’s proposal will have the effect of delaying the cable licensing process and the entry of competition. Under the current licensing process, the new entrant has the incentive to work with our cities and towns to reach a fair license. They make a market- based decision that it is more cost effective to reasonably work with the franchising authority, than it is to use the vast differential in financial resources in an attempt to circumvent the licensing process with the municipality. Thus, when the new entrant comes into the Commonwealth with cable franchise language (which it uses in other parts of the United States) which provides that if the company decides that it is just too difficult or costly to carry and provide PEG Access programming, that they will not provide said PEG programming to its subscribers, it is the volunteer members of the cable advisory committees across our great state, supported by the Boards of Selectmen and Mayors who appoint those committees, that work with the new company to explain the importance of PEG programming in Massachusetts, and more importantly, how that company can most effectively obtained and transmitted said programming to its subscribers. For instance, in the Town of Reading, the negotiation process resulted in the provision of funding for the extension of the Town’s fiber I-Net to its public schools. This I-Net extension, a task for which the new company sought not to be directly responsible, will allow for a dependable and clear picture and sound for PEG programming, while at the same time, allowing the Town to provide better and more cost effective services to its residents, through the use of high speed data, video conferencing, and much more. In other towns, the result of municipal franchising is the inclusion of an affirmative obligation for the new company to obtain PEG programming and provide it to their subscribers. Regardless of the specific result, this is a win for all parties – the new cable entrant, its subscribers, the Town, and its residents.

The above-referenced results would not have occurred if the parties were not required, by the licensing process, to work together. By contrast, under the regulatory process now proposed by Verizon, the focus and negotiating position of the new entrant will be less on reaching a mutually satisfactory agreement and license, than on positioning itself for an upcoming appeal to the Cable Division and, possibly thereafter, to court. Rather than encouraging the new entrant to work with communities, the proposed truncating and restricting of the licensing process, will more likely cause the new entrant to be afraid of making a proposal while negotiating with the Board of Selectmen or Mayor, because in the event an agreement is not reached, it may harm its legal position in the upcoming appeal. The focus of the parties will change from a market/political-driven incentive to reach an agreement (the company’s desire to commence their cable service and the municipality’s interest in providing cable competition for its residents), to a litigious state of mind. This avenue may be good for outside legal counsel, but not for business or, more importantly, the public interest.

We would also like to bring to the Division’s attention the fact that the subject Petition was filed by Verizon with the Cable Television Division in March of this year. It is our understanding that

¹ License entered into by the parties, but RCN not currently operating in Winchester

at that time, the parties to the initial cable licensing processes were, in good faith, trying to work out the many complicated issues involved in licensing Verizon (although many of those issues arose not as a result of cities and towns requesting or requiring new or untested license provisions, but because of Verizon's insistence that it was different from incumbent cable providers and/or should be treated differently. For instance, we are informed one example of this issue was Verizon's refusal to use the federal definition of the critically important term "cable system". In one community, that was the primary issue in weeks of negotiations and at least two (2) days of the public hearing). Because, the current deliberative cable licensing process required the parties to work through their sometimes differing views, rather than caused them to be litigated, municipalities and Verizon are now reaching agreements in a much more expedited time period, as exemplified by the communities we represent. More importantly, those agreements are reached in a cooperative manner, to the benefit of all parties. Verizon is to be commended for its good faith efforts and cooperation, and, of course, for its investment in the Commonwealth of Massachusetts. It would indeed be ironic and, indeed, unfortunate if the essence of the licensing process which allowed the parties to overcome the not unexpected need to resolve their differing views, were now to be gutted. This would be unacceptable.

To further expedite, without harming the process, we respectfully suggest that the new entrant apply for a cable license in a timely manner, at least at or near the beginning of the build-out. Additionally, we wholeheartedly support, as evidenced by the thoughtful questions posed by the Cable Division, those procedural changes to the Division's regulations, such as a streamlined publication requirements, and providing municipalities with flexibility as to provisional licensing, which will provide efficiency without harm to the process and the public interest.

Again thank you for the opportunity to be heard on this important matter. We appreciate the efforts of the Department and the Cable Division to protect the values important to Massachusetts and the public interest, and support you in those efforts. If you have any questions, please do not hesitate to contact us.

Sincerely yours,

Paul C. Casey
State Representative
31st Middlesex District

Patrick M. Natale
State Representative
30th Middlesex District

cc: Judith Judson, Chair, Massachusetts Department of Telecommunications and Energy